

The Administrative Law Judge found claimant's June 20, 1997, injury, that he sustained at home while walking through his kitchen, was a direct and natural consequence of a work-related injury sustained on March 21, 1996, while employed by the respondent. The respondent argues that claimant's injury, that occurred at home on June 20, 1997, is a separate intervening injury, not work related. The Appeals Board

disagrees with the respondent and finds that the preliminary hearing Order of the Administrative Law Judge should be affirmed.

The Appeals Board concludes that the Administrative Law Judge's findings and conclusions as set forth in her preliminary hearing Order are both accurate and appropriate and there is no need to reiterate those in this Order. Therefore, the Appeals Board adopts those findings and conclusions as its own as if specifically set forth herein.

Specifically, the Appeals Board finds that the claimant's testimony, coupled with the medical opinion of claimant's treating physician, Robert F. Paul, D.O., are persuasive that claimant's supracondylar fracture of the left femur was a direct and natural consequence of his March 21, 1996, work-related injury. Claimant suffered a comminuted tibial plateau injury to his left leg on March 21, 1996. Claimant testified that following his March 21, 1996, injury his left knee remained symptomatic and unstable. He also testified he remained under the care of Dr. Paul for that injury at the time his left knee gave out at home on June 21, 1997. In reply to a letter from claimant's attorney dated July 23, 1997, Dr. Paul opined that the reason claimant's left knee was unstable was ligament damage caused by the March 21, 1996, work-related accident.

This conclusion is also supported by the Kansas Supreme Court holding in Gillig v. Cities Service Gas Co., 222 Kan. 369, 564 P.2d 548 (1977). In Gillig, the Kansas Supreme Court affirmed a district court holding that claimant's knee injury, that occurred some two years following a work-related knee injury, was a natural and probable consequence of the original injury. The claimant twisted his knee while getting off a tractor and his knee later locked up while he was watching television. One of the factors the Kansas Supreme Court considered when it affirmed the district court holding, that the original injury was ultimately responsible for the current surgery, was that claimant's original injury remained symptomatic and had not healed. 222 Kan. at 372.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order of Administrative Law Judge Julie A. N. Sample entered on September 5, 1997, should be, and is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of October 1997.

BOARD MEMBER

c: Keith L. Mark, Mission, KS
Mark E. Kolich, Kansas City, KS
Julie A. N. Sample, Administrative Law Judge
Philip S. Harness, Director